

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

ANOOSH RAKHSHANDEH §  
§  
V. § CIVIL ACTION NO. 5:20-cv-00110-BQ  
§  
TEXAS TECH UNIVERSITY §

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS**  
**PLAINTIFF'S FIRST AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Anoosh Rakhshandeh, Plaintiff, and makes and files this response to Defendant's motion to dismiss Plaintiff's second amended complaint, and, in support thereof, would respectfully show the Court as follows:

1. This Court has jurisdiction over this lawsuit because Plaintiff's cause of action presents a federal question under Title VII of the Civil Rights Act of 1964.
2. Plaintiff has submitted with his response sufficient factual evidence to controvert the evidence submitted by Defendant, and such evidence, along with the allegations and claims contained in Plaintiff's First Amended Complaint, are sufficient to demonstrate that the Court has jurisdiction over this case.
3. Plaintiff has standing to assert a cause of action for discrimination under Title VII of the Civil Rights Act of 1964 and the discrimination claim is ripe for review.
4. Plaintiff has demonstrated through his pleadings and the evidence supporting this response that he has suffered an actual injury and that Defendant's discriminatory treatment of Plaintiff throughout his employment and in connection with Plaintiff's tenure application caused Plaintiff to sustain damages in the form of economic damages

(including lost wages) and mental anguish.

5. Plaintiff's pleadings and factual evidence demonstrate that Defendant's conduct relative to Plaintiff's tenure application constitutes a final decision the application.
6. Plaintiff's lawsuit is not based solely upon a denial of tenure as alleged by Defendant but is, instead, based upon discrimination Plaintiff claims occurred during his employment with Defendant and which continued through and includes the tenure application process.
7. Plaintiff's First Amended Complaint sets forth sufficient facts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq to satisfy the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure.
8. Plaintiff's First Amended Complaint, along with the evidence filed in support of this response, is sufficient to establish at this stage of the proceedings that Plaintiff was qualified for tenure and that he was treated differently with respect to the review of his tenure application relative to other comparable faculty members.
9. Plaintiff adopts and incorporates herein by reference the arguments set forth in Plaintiff's brief in support of this response.
10. Plaintiff requests that, should the Court find that the pleadings are in any way deficient, that the Court grant leave for Plaintiff to file an amended complaint in order to cure any defects identified by the Court.

WHEREFORE, Plaintiff prays that Defendant's motion to dismiss be denied in all respects and for such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

JOHNSTON & MILLER

Attorneys at Law  
1212 13<sup>th</sup> Street, Suite 101  
Lubbock, Texas 79401  
Phone: (806) 785-1499  
Fax: (806) 762-6901  
Email: jcraig@nts-online.net

By: /s/ J. Craig Johnston  
J. Craig Johnston  
State Bar No. 0078778

**CERTIFICATE OF SERVICE**

THIS WILL CERTIFY that a true and correct copy of this document has been served via the CM/ECF notification system on this the 3rd day of February 2022.

/s/ J. Craig Johnston  
J. Craig Johnston